

REMARKS

This application is amended in a manner believed to place it in condition for allowance at the time of the next Official Action.

Claims 1-4 are amended.

Claims 1-5, 7 and 8 remain pending in the application.

The Official Action objects to claims 1-4 for misspelling the word "procyanidins". The claims are amended to correct the misspelling. Thus, applicant respectfully requests that the objection be withdrawn.

Claims 1-5, 7 and 8 are rejected under 35 USC §112, second paragraph, as being indefinite.

The Official Action states that there is no "and" between the second to last ingredient and last ingredient in the claims.

The claims are amended so as to include "and" between the second to last and last ingredients.

Therefore, applicant respectfully requests that the rejection be withdrawn.

Claims 1-4 are rejected under 35 USC §103(a) as being unpatentable over CHRUBASIK et al., TAMEJA et al. 5,629,351, CHARTERS et al. 6,541,045, KEMPER, and LOCKHOFF et al. 4,710,491. Applicant respectfully disagrees.

CHRUBASIK is offered for teaching anti-inflammatory drugs with salicylic alcohol form Salix species.

TAMEJA is offered for teaching that the gum resin of *Boswellia serrata* has been used for the treatment of arthritis.

CHARTERS is offered for teaching an anti-inflammatory drug having N-acetyl D-glucosamine.

KEMPER is offered for teaching proanthocyanidin in great tea is effective for treating inflammation.

LOCKHOFF is offered for teaching an anti-arthritic compound having D-glucuronolactone.

The position of the Official Action is that it would have been obvious to combine the ingredients of the publications that have anti-inflammatory activities together because they are taught in the publications to have the same purpose.

However, as the Official Action acknowledges, none of the publications discloses a combination of active ingredients contained in the formulations of the claimed invention, or provides any hint or suggestion to combine the single active principles so as to obtain a formulation with improved efficacy against arthritis.

In particular, CHRUBASIK refers to the use of willow bark extract or salicin as antirheumatics, but these active principles are associated with Devil's claw and no suggestions are given as to possible combinations with other ingredients.

TAMEJA relates to a composition containing anti-inflammatory and antiulcerogenic activities and to a method for the isolation of a boswellic acid fraction, but it seems that no

teaching is given in respect of precise formulations, other possible ingredients and excipients.

CHARTERS refers to herbal compositions against inflammation, which indeed contain N-acetyl glucamine. However, this compound is used in admixture with ingredients that are completely different from those of the present invention.

The Official Action states that KEMPER teaches that proanthocyanidins in green tea is effective for treating inflammation. However, KEMPER refers in general to the antioxidant effect of these compounds and that the anti-arthritis effect is mentioned in a list of other diseases, without any pointer to the specific use against arthritis. Moreover, in the table at page 6, it is reported that no rheumatologic effect is observed. Thus, the efficacy of proanthocyanidins for treating inflammation is not clear.

LOCKOFF relates to N-glycosylated carboxylic acid derivatives for the treatment of rheumatic diseases. LOCKHOFF mentions methyl glucuronate. However, it is noted that Example 30, cited in the Official Action, clearly shows that methyl glucuronate is used as a reagent for the preparation of N-(methyl-D-glycopyranosyluronato)-N-octadecyl-oleic acid amide. Therefore, LOCKHOFF does not disclose or suggest the use of methylglucuronate as such as a possible ingredient for the preparation of anti-arthritis compositions. For this reason, the skilled person would have not considered LOCKHOFF as a relevant

source of information for the conception of the present invention.

CHEN faces the problem of improving the solubilization of triglycerides and improving the delivery of therapeutical agents and discloses formulations comprising:

a) a carrier comprising a triglyceride and at least two surfactants, at least one surfactant being hydrophilic; and

b) a therapeutically effective amount of a polysaccharide drug

wherein the triglyceride and the surfactants are in such an amount that allows to form a clear aqueous dispersion.

Oenothera biennis oil is reported in a long list of possible triglycerides (87 in table 1) and there is no hint or suggestion which would have led the skilled person to select this ingredient for its anti-inflammatory properties and to combine it with the other ingredients of the formulations of the present invention.

Thus, in view of the above, none of the above-cited publications provides sufficient motivation to select each ingredient as suggested in the Official Action so as to arrive at the claimed invention.

Moreover, the publications fail to suggest the unexpected results associated with the formulations of the claimed invention. Applicant respectfully directs the Examiner's

attention to the Rule 132 Declaration submitted with this amendment.

The declaration compares the efficacy of each active ingredient to the claimed combination of these ingredients for treating patients suffering from osteoarthritis of the knee. Efficacy is evaluated based on the percentage of pain reduction, stiffness reduction, and physical function after 14 days of treatment, e.g., as shown in Tables 1-3. From the results in the tables, it is apparent that the composition of the claimed invention is more effective than a composition containing only one of the active ingredients and could not have been predicted by the efficacy of the individual active ingredients. Applicant respectfully submits that the superior results could not have been foreseen on the basis of the efficacy of the single active ingredients.

Therefore, as the publications cited fail to predict the superior results of the claimed invention, the proposed combination of publications fails to render obvious claims 1-5, 7 and 8. Applicant respectfully requests that the rejection be withdrawn.

In view of the foregoing remarks, applicant believes that the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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Appendix:

The Appendix includes the following item:

- Declaration Under Rule 132